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11 *Counsel for Intervenors*
12 *Alphabet Inc. and YouTube, LLC*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

16 DAVID A. STEBBINS,) CASE NO.: 4:21-cv-04184-JSW
17 Plaintiff,)
18 v.) **RESPONSE TO MOTION FOR**
19 KARL POLANO et al.,) **LEAVE TO FILE SUPPLEMENTAL**
20 Defendants.) **AND/OR REVISED OPPOSITION**
21) **TO MOTION TO INTERVENE**
22) **[DKT. 148]**
23) Action Filed: June 2, 2021
24)

1 Plaintiff's 35th motion in this case, like many of the others before it, is meritless. He
 2 seeks leave to file a "revised" opposition to Alphabet and YouTube's Motion to Intervene, on the
 3 grounds that a video he cited in his original brief is no longer available on YouTube. Plaintiff
 4 requests an opportunity to submit a new brief that cites a different video, and/or attaches
 5 screenshots of the comments section from that video, in place of the one that was disabled. Dkt.
 6 148 (motion); *see also* Dkt. 144 ¶¶ 74-76 (opposition brief, citing to original video and comments
 7 that were disabled).

8 As an initial matter, we take issue with Plaintiff's accusation that YouTube's removal of
 9 the original link was "criminal" and done in an effort to hide something from the Court.
 10 YouTube disabled the link *at Plaintiff's request*, in response to his own DMCA takedown notice.
 11 His allegations of criminality and "sabotage" are baseless and irresponsible.

12 In addition, even though the link to the video he cited is no longer available, Plaintiff
 13 already copied and pasted excerpts from the link that he wanted the Court to see. *See* Dkt. 144 ¶
 14 76. There is no need for Plaintiff to file another brief for purposes of citing an additional link that
 15 contains the same type of content. His point is already made.

16 If, however, the Court is inclined to permit Plaintiff to file a revised opposition brief, the
 17 Court should make clear that Plaintiff is not permitted to use this as an opportunity to rewrite or
 18 expand upon his already-lengthy opposition. If anything, Plaintiff should only be permitted to
 19 supplement his brief for purposes of citing the new YouTube link that he refers to in his motion
 20 (Dkt. 148 ¶ 6) and nothing more. Plaintiff promises that he is "not simply requesting another go
 21 at the opposition just because I feel I could have done better[.]" *Id.* ¶ 15. The Court should hold
 22 him to that promise and not open the door for more procedural abuse.

23 Lastly, Plaintiff seeks leave to file a link to his Accidental Livestream under seal so the
 24 Court may use it to view the content at issue. Dkt. 148 ¶¶ 9-11. Alphabet and YouTube do not
 25 oppose this request. Indeed we encourage the Court to watch the video, as it demonstrates there
 26 was no creative authorship in it, as required for copyright protection.

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1 Dated: May 23, 2022

Respectfully submitted,

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By: s/ Jason Mollick

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